S.B. Criminal Misc. Bail Application No.3296/2006
Date : 03.08.2006

HON'BLE MR.SATYA PRAKASH PATHAK, J.

Mr. R.K. Charan)
Miss Pragya Ojha) for the applicant.
Mr. V.R. Mehta, Public Prosecutor.

I have heard learned counsel for the applicant as well as the learned Public Prosecutor for the State and carefully gone through the impugned order.

The contention of learned counsel for the applicant is that the applicant has got nothing to do with vehicle and the contraband material recovered from it which was seized by the police. According to learned counsel, the applicant is neither owner of the vehicle nor driver of the vehicle and one Kalu Ram, who is the owner of the vehicle, on his version that the vehicle in question was given on hire to the applicant, he has been involved in this case. He submits that had things have happened in the manner as disclosed by Kalu the owner of the

vehicle, then, there was no occasion for Kalu Ram to have lodged First Information Report regarding theft of the jeep as the FIR in this regard was lodged on 08.07.2005 whereas the incident had taken place on 05.07.2005 in the present matter. He further submits that in this case the police party reached to a conclusion that absolutely a false report was lodged by Kalu Ram to save himself because prior lodging of the FIR the vehicle was already seized by the police while contraband material was being transported in it. In last, he prays that in above circumstances, the applicant cannot be held responsible for the offence in relation to which charge-sheet has been filed, the applicant should be given benefit of bail under Section 439 Cr.P.C.

On the other hand, learned Public Prosecutor has invited my attention to two statements available at page No.65 and 66 of Bhanwar Singh and Kailash. According to learned Public Prosecutor, in view of these two statements, it is clear that the contraband material was being transported by the accused-applicant.

I have considered the submissions made before me and carefully gone through the material available on record.

After having considered these two statements referred by learned Public Prosecutor and also the FIR which was lodged by Kalu Ram, who is said to be the owner of the vehicle, I am of the opinion that prima facie, there appears no reason for Kalu Ram who is owner of the vehicle to have lodged the report regarding theft of the vehicle when the fact as disclosed by him and above two witnesses was that the vehicle in question was on the date of incident was with the applicant.

Taking into consideration the overall facts and circumstances of the present case, I think it just and proper to enlarge the accused applicant on bail.

Accordingly, the bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that the applicant Ram Singh son of Devi Singh shall be released on bail in FIR

No.114/2005 P.S. Gangrar, District Chittorgarh, provided he executes a personal bond in the sum of Rs.30,000/- with two sound and solvent sureties in the sum of Rs.15,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial. However, as an abundant caution, I would like to place it on record that whatever has been stated hereinabove in this order has been said so only for the purpose of disposing of the present bail petition moved on behalf of the applicant. No part of this order shall be taken as expression of opinion for decision in the case by the trial court.

(SATYA PRAKASH PATHAK), J.